

### **Remarks**

This is in response to the OA dated Dec 22, 2008.

Claim 1 has been amended as set out in more detail below. Claim 37 has been amended to correct a typographical error.

### **Rejections under 35 USC 103**

The Examiner has rejected claims 1 and 31 to 37 under 35 USC 103 as being unpatentable over Shinn (U.S. 6,655,585) in view of Collberg (U.S. 6,668,325). Further, the examiner has indicated that the applicants arguments were not persuasive. As best understood, the examiner is rejecting the claims, and alleging that our arguments were not persuasive, as the cited art suggests providing various forms of security through software **code** obfuscation. Accordingly, we have amended the claim to clarify that not only is the tamper-resistant software (TRS) encoding performed to the software code, but that the biometric template is itself secured.

Support for the amendment is located throughout the specification, for example at paragraphs 40, 41 and 138

Applicants respectfully submit that neither Shinn nor Collberg discloses integrating into the access software application, by means of partial evaluation, the parameters and the biometric template, and performing tamper-resistant software (TRS) encoding to the access software application including storing the biometric data in an encoded format that is irreversible, such that said biometric template is not stored on said device in a form that is accessible without executing said TRS encoded access software application.

Unlike the prior art, the claimed invention secures the biometric data of a user by storing the biometric template data obtained from the user ONLY within the TRS encoded access software. Paragraph [00134] teaches that if the biometric data has been TRS-encoded with the access software, it is impossible to reverse-engineer the biometric data back to its original format. Paragraph [00138] teaches that if the PDA, laptop, blackberry or similar device is stolen the biometric data is protected. The attacker may be able to access the TRS-encoded code, but will not be able to obtain any biometric data in real-world format. According to paragraph [0040], a secure server is not needed as there is no biometric data stored in an

unprotected form anywhere on the device. Thus, the biometric template data is secure even if the device is lost or stolen.

Neither reference teaches or suggests the claimed invention, as the cited art are not directed to securing the biometric template data itself.

Accordingly, we respectfully submit the amended claims are patentable over the cited art, and a notice of allowance is hereby requested.

The Commissioner is hereby authorized to charge any additional fees, and credit any over payments to Deposit Account No. 501593, in the name of Borden Ladner Gervais LLP.

Respectfully submitted,

**JOHNSON, Harold, J. et al**

By: /Jeffrey M. Measures/

**Jeffrey M. Measures**

**Reg. No. 40,272**

Borden Ladner Gervais LLP

World Exchange Plaza

100 Queen Street, Suite 1100

Ottawa, ON K1P 1J9

CANADA

Tel: (613) 237-5160

Fax: (613) 787-3558

E-mail: [ipinfo@blgcanada.com](mailto:ipinfo@blgcanada.com)

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